

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENNETH HERSHEY,

Petitioner,

Case No. 1:07-cv-906

v.

Honorable Gordon J. Quist

JASON CARLSON et al.,

Respondents.

_____ /

JUDGMENT

In accordance with the Opinion entered this day:

IT IS ORDERED that Petitioner's application for habeas corpus relief be DISMISSED without prejudice pursuant to Rule 4 of the Rules Governing § 2254 Cases for lack of exhaustion of available state-court remedies.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED because a reasonable jurist could not conclude either that the district court erred in dismissing the petition for failure to exhaust or that the petitioner should be allowed to proceed further. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Dated: January 2, 2008

/s/ Gordon J. Quist

Gordon J. Quist

Senior United States District Judge